S.B. Cr. Misc. Petition NO.476/2007

Shoyab Khan
Vs.
State of Rajasthan

Date of Order :: 12-07-2007

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. R.K. Charan, for the petitioner.
Shri Ashok Upadhyay, PP.

By the instant petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 1.2.2007 passed by the learned Additional Sessions Judge, Nimbahera (for short, 'the revisional court') whereby the revision petition filed by the petitioner against the order dated 16.1.2007 passed by the Sub Divisional Magistrate, Nimbahera (for short, 'the Executive Magistrate') was partly allowed.

While setting aside the order of the Executive Magistrate to the extent directing the petitioner to furnish surety bonds in a sum of Rs.1,00,000/- each by four gazetted officers stood modified to Rs.50,000/- and instead of four gazetted officer, to be verified by the Tehsildar.

Heard learned counsel for the parties.

The S.H.O., Nimbahera filed a complaint under Section 41(2)/110 Cr.P.C. before the Executive Magistrate. The Executive Magistrate read the substance of complaint and by notice which the petitioner accepted, passed the order directing the petitioner to file a personal bond and surety bond for maintaining the peace and tranquility of good behaviour for a period of three years. However, it was further directed that the personal bond should be in a sum of Rs.1,00,000/- and surety bond by four gazetted officers each in the like amount. The order of the Executive Magistrate directing the petitioner to furnish the heavy bail and surety bond was modified by the revisional court.

It is contended by the learned counsel for the petitioner that the provision of Section 112 Cr.P.C. has not been complied with which provides, if the person in respect of whom such order is made, is present in court, it shall be read over to him and if he so desires, the substance of complaint shall be explained to him. The petitioner was present before Executive Magistrate and substance of complaint was read over to him and he accepted the notice,and therefore there is substantial compliance of the provisions of Section 112 Cr.P.C. It is lastly contended that the period of three years is excessive, and same may be reduced.

Having regard to the facts and circumstances of the case, in my view, directing the petitioner to maintain the peace and be of good behaviour for a longer period of three years appears to be on higher side.

In this view of the matter, while maintaining the order of Executive Magistrate as modified by the order of revisional court to the extent directing the petitioner to furnish personal bond and surety bond to maintain peace and be of good behaviour for a period of three years is modified to two years from the date, he enters into the bond.

[H.R.PANWAR],J.

Praveen